



January 28, 2015

Angela Garner  
Deputy Director  
Division of State Demonstrations and Waivers  
Center for Medicaid and CHIP Services, CMS  
7500 Security Boulevard, Mail Stop S2-01-16  
Baltimore, MD 21244-1850

Re: Proposed California Amendment to Bridge to Health Reform  
Demonstration (No. 11-W-00193/9), Drug Medi-Cal Organized  
Delivery System Waiver

Dear Ms. Garner:

I write on behalf of the 750 patients who receive substance use disorder treatment services at our opiate treatment program located at 1111 N. El Dorado St. Stockton, CA 95202. We are strongly opposed to sections of the California Bridge to Reform Demonstration (No. 11-W-00193/9) Amendment for Drug Medi-Cal Organized Delivery System Waiver, submitted by the California Department of Health Care Services. Our concern, based on ten years of program operation, is that waiving federal access protections and granting San Joaquin county authority to establish reimbursement rates will result in decreased access to critical, life-saving treatment services.

Specifically, the current proposal will waive beneficiary freedom of choice, equality in amount, duration and scope, fairness for patients in every county and reasonable promptness, some of which form the basis of a lawsuit 20

■ 1111 N. El Dorado Street, Stockton, CA 95202 ■ T: 209.938.0228 ■ F: 209.938.0281 ■

[www.medmarkstockton.com](http://www.medmarkstockton.com)



years ago called Sobky vs. Smoley. Before that lawsuit, counties limited access to services by: limiting DMC slots, limiting funding, both or other. After the lawsuit, significantly more people have entered treatment and beneficiaries can access medically-necessary treatment on demand, without the waiting lists that were standard practice before the lawsuit. This waiver is likely to overturn that lawsuit and cause California and San Joaquin County to regress back more than 20 years. We ask that CMS NOT do anything that may undermine the permanent injunction that was based on overwhelming evidence of county efforts to limit access. Instead, we suggest CMS require California to carve-out opiate treatment providers from this waiver. Such carve-out will not preclude San Joaquin from contracting with our program and offering OTP services to residents of San Joaquin County.

- Med Mark Treatment Centers, is located North West Downtown Stockton, close to the Bus Hub (Stockton's only public transportation). Our Program is client centered and consumer friendly. We've operating for ten years; we have 750 patients and staff of 35. Our staff makeup is reflective of the community we serve: Mexican-American, European-American, African-American, Cambodian-American, Homgh-American, Japanese-American, and Filipino-American. We interface with the community at large our referrals reflect the needs of Stockton: Many come via the Criminal Justice System (Probation, Parole, and Re-entry Drug Court); the Pala Alto VA Health Care System refers Veterans, Kaiser Permanent, Self Help Groups, the Shelters, and Faith Based Groups.

- Stockton is the County Seat; Stockton has had the dubious distinction of being the Most Miserable City in the United States according to Forbes (with Drug Addiction being one of the factors,



contributing to the quality of life issue and crime). San Joaquin County is medium size county; it was the epicenter of the Housing meltdown.

Based on my experience in working with San Joaquin County, I believe that the County views residential treatment as the cure all modality. If challenged by the County's Board of Supervisors to re-direct funds to residential treatment, I believe that funding will be re-directed from Medication Assisted Treatment to mostly residential services. While the county closed their Methadone Program in 2004, they county still operates numerous residential programs. The county could also decide that they want to re-open their methadone program, since they would have the authority to establish rates and selectively contract.

If the waiver is implemented, decisions will be made that are not in the best interest of patients. The County's Board of Supervisors and some county officials are simply not knowledgeable and/ or supportive of methadone treatment. In fact, those knowledgeable have said that some members of the Board of Supervisors do not understand why patients stay on methadone for longer periods of time.

Recently, county officials said that they were surprised by the drug medi-cal expansion that started in early 2014. They did not expect the growth to continue each month. Yet, it continues to grow by approximately 2% per month. They were also surprised that a significant number of patients enrolling in the drug medi-cal program are not newly eligible beneficiaries and would be not reimbursed for at 100%. The county officials said that the county already has the highest number of slots per capita and they are concerned about how they will fund additional services for opioid dependent patients.





Without question, implementation of the waiver will negatively impact patient care in the following ways:

- Health care reform (the Affordable Care Act) has significantly increased access to OTP services. This waiver will undermine the intent of the ACA.
- The proposed appeals process for providers whose contracts are terminated is superficial and extremely limited, only allowing appeals when a county determines they have an adequate network, but not in the case of a county that simply wants to limit funding or a county that simply wants to use a pretext to reduce access. Moreover, there are no metrics for determining network adequacy.
- The provisions for state oversight do not provide strong nor swift state intervention when a county fails to provide adequate access.
- After twenty years of success, California's proposed Organized Delivery System would now give back primary responsibility to choose providers, to set rates, and to control access to narcotic treatment programs to all California counties, including those that illegally denied care for many years.
- California's Proposition 36 is a good example of how county control over treatment will result in limited access. Under Prop 36, San Joaquin County referred very few people to NTP services, as documented in the Prop. 36 outcome studies conducted by UCLA.
- Section 7. Financing of the Special terms and Conditions says counties will propose county-specific rates and the State will approve the rates. This will affect access and result in denial, delay, and limitation of services when rates are insufficient to attract sufficient



providers to meet beneficiary needs and demands. This provision will also result in unequal treatment of beneficiaries based on the rates paid in different counties. Furthermore, the counties have proposed reverting from the current fee-for-service system to an antiquated cost-reimbursement system. The current system provides incentives for efficiency and aligns payment for services with evidence-based services, ensuring the best possible patient outcomes. Cost reimbursement, on the other hand, rewards inefficiency and greater costs with no connection to outcomes. That is why Congress and most every other payer has moved away from cost reimbursement systems.

In summary, Med Mark Treatment Centers-Stockton requests that narcotic treatment programs be exempted from the Organized Delivery System waiver for the above stated reasons.

If you would like more information, please do not hesitate to contact me. Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Allen Grim', is written over the typed name.

Your Professional Colleague

Allen Grim

Program Director